

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID MADDOX,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,  
et al.,

Defendants.

1:02-CV-05225-DLB-P

ORDER DIRECTING SERVICE  
BY THE UNITED STATES MARSHAL  
WITHOUT PREPAYMENT OF COSTS

Plaintiff is proceeding in forma pauperis pursuant to 28 U.S.C. § 1915. The court previously ordered plaintiff to provide information for service of process on form USM-285, sufficient copies of the complaint for service, and a notice of compliance. Plaintiff has filed the required papers. Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to forward the following documents to the United States Marshal:

- (1) One completed and issued summons for each defendant to be served;
- (2) One completed USM-285 form for each defendant to be served;
- (3) One copy of the second amended complaint filed on May 19, 2003, for each defendant to be served, plus an extra copy for the Marshal; and
- (4) One copy of this order for each defendant to be served, plus an extra copy for the

1 Marshal.

2 (5) One copy of the court's consent form for each defendant to be served.

3 2. Within ten days from the date of this order, the United States Marshal is directed to notify the  
4 following defendants of the commencement of this action and to request a waiver of service in  
5 accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c):

6 **LEWIS**

7 **ROBINSON**

8 **NEUBARTH**

9 **HUANG**

10 **YOUNG**

11 3. The U.S. Marshal is directed to retain the summons and a copy of the complaint in their file  
12 for future use.

13 4. The United States Marshal shall file returned waivers of service as well as any requests for  
14 waivers of service that are returned as undelivered as soon as they are received.

15 5. If a waiver of service is not returned by a defendant within sixty days of the date of mailing  
16 the request for waiver, the United States Marshal shall:

17 a. Personally serve process and a copy of this order upon the defendant pursuant to Rule  
18 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c) and shall command all  
19 necessary assistance from the California Department of Corrections (CDC) to execute this order.  
20 The United States Marshal shall maintain the confidentiality of all information provided by the  
21 CDC pursuant to this order.

22 b. Within ten days after personal service is effected, the United States Marshal shall file  
23 the return of service for the defendant, along with evidence of any attempts to secure a waiver  
24 of service of process and of the costs subsequently incurred in effecting service on said  
25 defendant. Said costs shall be enumerated on the USM-285 form and shall include the costs  
26 incurred by the Marshal's office for photocopying additional copies of the summons and  
27 complaint and for preparing new USM-285 forms, if required. Costs of service will be taxed

1 against the personally served defendant in accordance with the provisions of Fed. R. Civ. P.  
2 4(d)(2).

3 6. In the event that defendants make an appearance in this action by filing an answer, dispositive  
4 motion, or other pleading, the U.S. Marshals Service need not personally serve those defendants.

5 7. In the events that defendants either waive service or are personally served, defendants are  
6 required to reply to the complaint. 42 U.S.C. § 1997e(g)(2).

7 IT IS SO ORDERED.

8 **Dated: December 12, 2006**  
9 3c0hj8

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE